IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition No.12207 of 2012
and M.P.No.1 of 2012

Shree Karthik Papers Ltd.,
Rep. by Director, Vignesh Velu,
25, 50 Feet Road, Krishnasamy Nagar,
Ramanathapuram,
Coimbatore - 641 045. ...Petitioner

Vs.

The Assistant Commissioner (Commercial Tax),
R.S.Puram, (West Circle),
Coimbatore. ...Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records on the file of the respondent in Tamilnadu General Sales Tax Act 1960975/2004-2005 dated 09.04.2012 as well as the consequential order of the respondent in Central Sales Tax Act 644466/2004-2005 dated 09.04.2012 and quash the same so far as adjusting the sales tax refundable under the Tamilnadu General Sales Tax Act towards the tax arrears under Central Sales Tax Act and consequentially direct the respondent to refund the Sales tax paid in excess to the petitioner forthwith for the Assessment year 2004-2005.

For Petitioner : Mr.M.Krishnappan, Senior Counsel
for M/s.R.Swarnalatha

For Respondent : Mr.V.Haribabu,
Additional Government Pleader(T)

ORDER

Heard the learned Senior Counsel for the petitioner and learned Additional Government Pleader for the respondent. The petitioner has challenged the impugned order passed by the respondent adjusting the amount ordered to be refunded to the petitioner vide final order dated 26.12.2011 for the assessment for year 2004-2005- TNGST for the dues under CST for arrears of tax for the assessment years 1999-2000 -CST, 2000-2001 and 2004-2005.

2. The Learned Senior Counsel submits that adjustment of the amount pending disposal of appeals are impermissible for arrears of tax due under CST for the assessment years 1999-2000 -CST, 2000-2001 and 2004-5 and therefore prays for allowing the writ petition.

3. Per contra the learned Senior Standing Counsel submits that the respondent justified the impugned order adjusting the tax due under the provisions of the Central Sales Tax Act, 1956 and therefore submits that there is no merits in the petition.

4. Though, there is merits in the submissions of the Learned Senior Counsel for the petitioner it is noticed that these appeals are pending final hearing before the Sales Tax Appellate Tribunal, Coimbatore for the respective assessment years since 2014 and 2017 vide following Appeal Nos:-

- I. CTA 9/14 for the assessment year 1999-2000-CST;
- II. CTA 10/14 for the assessment year 2000-2001-CST; and
- III. Unnumbered appeal in STAT (AB), CBE in Ref- No. 1690 of 2017 for the assessment year 2004-2005-CST.

5. I have considered the submissions of the Learned Senior Counsel for the petitioner and the respondent. The present writ petition is pending for last 7 years before this court. During the interregnum the petitioner has fallen in arrears of tax for the above mentioned assessment years under the Central Sales Tax Act, 1956. Therefore, I do not find any reasons to grant relief to the petitioner at the stage as these appeals itself can be directed to be disposed by the Sales Tax Appellae Tribunal, Coimbatore within a period of 6 months from date of this order.

6. In case the petitioner succeeds in the above appeals, the respondent shall refund the amount forthwith after due adjustments of any tax if any that may be due from the petitioner. Needless to state, the petitioner will be entitled to the interest on delay at the same rate on which arrears of tax are being collected by the respondents under the Act to an assessee.

- 7. The writ petition thus stands disposed with the following direction:-

  1. The Sales Tax Appellate Tribunal, Coimbatore shall take up and dispose the respective appeals of the

petitioner within a period of 6 months from date of receipt of this order;

2. The respondent shall refund the amount to the petitioner subject to outcome of the above appeals;

3. The Registry is directed to communicate this order directly to the Registrar of the Sales Tax Appellate Tribunal, Coimbatore to list the above appeals of the petitioner for speedy disposal within a period of 6 months from date of receipt of this order; and

4. Petitioner is also permitted to serve a certified copy of this order before the Sales Tax Appellate Tribunal, Coimbatore with the request to take up the appeals of the petitioner's for a speedy disposal within a period of 6 months from date of this order.

8. The writ petition stands disposed with the above direction. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

drl

To

1.The Assistant Commissioner (Commercial Tax),
R.S.Puram, (West Circle),
Coimbatore.

2.The Registrar,
The Sales Tax Appellate Tribunal,
Coimbatore.

+1cc to Mr.R.Swarnalatha, Advocate, S.R.No.105603
+1cc to the Government Pleader, S.R.No.106602

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SR(CO)
KKV/06/08/2020